

REMARKS

In the office action mailed June 20, 2003, the following actions were taken by the Examiner:

- 1) claims 1-3, 5-20, and 22 were allowed; and
- 2) claims 23-28 were rejected under 35 U.S.C. 103(a) as being obvious over WO Patent Application 98/48648 (hereinafter "Henry").

REJECTIONS UNDER 35 U.S.C. 103(a)

Claims 23-28 were rejected under 35 U.S.C. 103(a) as being obvious over Henry. Henry does not disclose or suggest solution mixtures of iron amino acid chelate or iron proteinate and organic acid as used by the Applicant, nor does it disclose preparing the mixture prior to adding the sugar. For example, upon admixing an organic acid with an iron amino acid chelate in solution, reaction between the iron and the organic acid will substantially not occur. However, the solubility of the iron amino acid chelate has become enhanced. A detailed explanation of this can be found in previous office action responses, which are incorporated herein by reference. Due to the enhanced solubility of the iron amino acid chelate, the sugar can be added without causing a complex to form.

Sugar is mentioned in Henry in two contexts: 1) iron-sugar-carboxylate complex is described as an iron source that can be used, or 2) sugar can be included in a dry beverage mix. Method claim 23 as is presently before the Examiner does not read on either one of these compositions. Iron-sugar-carboxylate complexes are not discussed, nor are they relevant to the method of claim 23. Additionally, by dry blending sugar with a dry drink mix, by definition, the sugar is not being added to a solution. As apparent from the claim language, claim 23 is a method claim drawn to

enhancing the solubility of an iron amino acid chelate or iron proteinate-containing aqueous solution in the presence of a sugar, not a method of forming a dry mix. Even with respect to the disclosure related to the ready-to-drink beverages, all that is disclosed is the addition of water to the dry mix, not a specific ordered addition of ingredients to ensure that an iron amino acid chelate or iron proteinate is solubilized in the presence of the added sugar.

The present amendment and response are provided as invited by the Examiner in the June 20, 2003 Office Action, where the Examiner stated: "Independent claim 23 has not been amended to require that a mixture of iron amino acid chelate or iron proteinate and organic acid be formed . . ." The present amendment now puts before the Examiner what the Examiner stated was lacking, and thus, allowance of claims 23-28 is respectfully requested.

Applicants submit that each and every amendment herein, and throughout the prosecution of the present application is fully supported by the specification as originally filed, and that no new matter has been added.

Claims 1-3, 5-20, and 22 have been previously allowed, and as claims 23-28 are now believed to be in condition for allowance. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone Gary Oakeson, or the undersigned attorney, at (801) 566-6633, so that such issues may be resolved as expeditiously as possible.

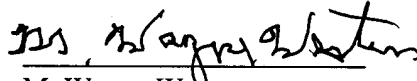
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Please charge any additional fees, except for Issue Fee, or credit any
overpayment to Deposit Account No. 20-0100.

Dated this 19th day of Sep., 2003.

Respectfully submitted,



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